

REMARKS

This application has been reviewed in light of the Office Action dated December 5, 2011. Claims 1-3, 5-8, 10-21, 23-25 and 27-29 are pending in the application. Claims 1 and 25 have been amended in a manner that Applicants believe overcome the rejections in the Office Action. Support for the amendments can be found throughout the specification, in the claims as originally filed and figures of the present disclosure, and in particular at paragraphs [0011], [0012], [0029], [0035], [0041], [0050], [0054], [0055], [0067], [0070] and [0119] and Claim 9, as originally filed. Applicants submit that no new matter or issues are introduced by the amendments. Claims 4, 9, 22, 26 and 30-34 have been canceled. Applicants reserve the right to prosecute the subject matter of any cancelled or withdrawn claim(s) in divisional and/or continuation applications. Further, Applicants do not acquiesce to any portion of the Office Action not particularly addressed.

Applicants would like to thank the Examiner for taking the time to participate in a telephone interview with Applicants' counsel on Friday, March 30, 2012 to discuss the Examiner's comments made in the Advisory Action dated February 8, 2012, as well as Applicants' proposals to overcome the rejections in the Office Action under 35 U.S.C. § 103(a). During the interview, Applicants proposed amending Claim 1 to include that the non-glycerol stabilizing means is a non-glycerol polyol selected from the group consisting of polyvinyl alcohols and polyethylene glycols by removing any reference to deuterated water (D₂O), protease inhibitors, non-glycerol polyols, polysaccharides, acids, erythritol, hydrogenated starch hydrolysates, isomalt, lactitol, maltitol, mannitol, sorbitol and xylitol in Claim 1. The Examiner indicated that amending the Claim 1 in this manner would overcome the rejections in the Office Action under 35 U.S.C. § 103(a), but that a new search may be required. Applicant has amended Claim 1 accordingly, as discussed herein.

In the Office Action, Claims 1-3, 5-8, 10-21 and 23-29¹ have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over WO 03030956 (Osteotech, Inc.).

¹ Applicants note that Claim 26 was canceled in an amendment dated November 9, 2011. Accordingly, Claim 26 should not be part of this rejection.

Applicants have amended Claim 1 to include that the non-glycerol stabilizing means is a non-glycerol polyol selected from the group consisting of polyvinyl alcohols and polyethylene glycols, which the Examiner acknowledged would overcome the rejections in the Office Action under 35 U.S.C. § 103(a), as discussed above. Accordingly, Applicants submit that this rejection is now moot and that independent Claim 1 and all claims depending therefrom are patentable over the cited prior art. Reconsideration and withdrawal of the rejection of Claims 1-3, 5-8, 10-21, 23-25 and 27-29 under 35 U.S.C. 103(a) is respectfully requested.

In the Office Action, Claims 1-3, 5-8, 10-21 and 23-29² have been rejected under 35 U.S.C. 112, first paragraph, allegedly due to the reference to acids as a non-glycerol stabilizing means in Claim 1. Applicants respectfully disagree with this rejection. Nevertheless, Applicants have amended Claim 1 to remove any reference to acids as a non-glycerol stabilizing means. Accordingly, Applicants submit that this rejection is now moot and that independent Claim 1 and all claims depending therefrom are in compliance with 35 U.S.C. 112, first paragraph. Reconsideration and withdrawal of the rejection of Claims 1-3, 5-8, 10-21, 23-25 and 27-29 under 35 U.S.C. 112, first paragraph is respectfully requested.

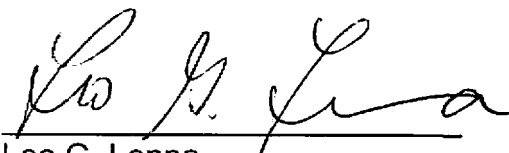
In the Office Action, Claims 1-3, 5-8, 10-21 and 23-29³ have been rejected under 35 U.S.C. 112, second paragraph, allegedly due to the reference to acids as a non-glycerol stabilizing means in Claim 1. Applicants respectfully disagree with this rejection. Nevertheless, Applicants have amended Claim 1 to remove any reference to acids as a non-glycerol stabilizing means, as discussed above. Accordingly, Applicants submit that this rejection is now moot and that independent Claim 1 and all claims depending therefrom are in compliance with 35 U.S.C. 112, second paragraph. Reconsideration and withdrawal of the rejection of Claims 1-3, 5-8, 10-21, 23-25 and 27-29 under 35 U.S.C. 112, second paragraph is respectfully requested.

² Applicants note that Claim 26 was canceled in an amendment dated November 9, 2011. Accordingly, Claim 26 should not be part of this rejection.

³ Applicants note that Claim 26 was canceled in an amendment dated November 9, 2011. Accordingly, Claim 26 should not be part of this rejection.

In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 1-3, 5-8, 10-21, 23-25 and 27-29 presently pending in the application are believed to be in condition for allowance and patentably distinguish over the art of record. An early notice thereof is earnestly solicited. If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicants' undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leo G. Lenna", written over a horizontal line.

Leo G. Lenna
Reg. No. 42,796
Attorney for Applicants

DILWORTH & BARRESE, LLP
1000 Woodbury Road, Ste. 405
Woodbury, NY 11797
(516) 228-8484 (PHONE)
(516) 228-8516 (FAX)